

76-8786/1

4 August 1976

STATINTL

NOTE FOR: Mr. Knoche [redacted]

SUBJECT: Thoughts on OGC Draft Bill to Establish
IC Staff

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1. The subject bill was received yesterday. I'm not sure I understand why it is needed or what is behind it UNLESS merely the creation of a legal basis for a separate appropriation for the IC Staff [redacted] tells me that in addition to the OGC version, IC Staff [redacted] is working on such a draft bill and OLC is working on a separate ICS charter as part of the amendment to the National Security Act of 1947.

STATINTL

2. The most noteworthy aspect of the draft is that IT DOES NOT SPECIFY THE PURPOSE OF THE ICS OR ITS FUNCTIONS AND DUTIES, NOR THOSE OF THE STATUTOR DEPUTY FOR THE COMMUNITY. It does allow the DCI to delegate his duties to the Community Deputy "subject to the approval or direction of the President." As you know, a delegation has already been accomplished, albeit without Presidential direction or approval.

3. I think the bill as written is unnecessary. If it spelled out and clarified the DCI's powers and central role in coordinating U.S. intelligence activities that would be another matter. With the exception of the creation of a second deputy (which is about to be cleared separately by OMB) I think the DCI should attempt to defer any overhaul of his Community role and authorities until the certain revision of the 1947 Act.

STATINTL

Executive Registry

76-8786/2

STATINTL

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Executive Registry

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OGC 76-4245
3 August 1976


MEMORANDUM FOR: Deputy to the DCI for the Intelligence Community
Deputy Director of Central Intelligence
Legislative Counsel

FROM : Anthony A. Lapham
General Counsel

SUBJECT : Draft Bill to Establish IC Staff

1. The attached draft bill to create a separate IC Staff, together with the explanatory memorandum, was prepared in response to the recent conversations with Mr. Snodgrass and subsequent discussions with Mr. McMahon. As the explanatory memorandum indicates, events may overtake this matter, or for other reasons it may be decided not to pursue this approach. The thought is, however, to have draft legislation in existence to which all concerned could address their consideration.

2. Please let us have your comments and we, of course, are available for any assistance.


Anthony A. Lapham

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Attachments

OGC 76-4246

3 August 1976

MEMORANDUM FOR THE RECORD

FROM :

STATINTL

SUBJECT: Draft Bill to Establish IC Staff

1. An explanation and some comments on the draft bill to establish an independent IC Staff (26 July 1976) follow:

a. The bill is confined solely to the IC Staff and the Deputy Director for the Community. It avoids touching upon other legislative actions, pending or projected, which might become involved in any OMB or Congressional consideration of the proposed bill. In particular, the bill is not a revision of the CIA charter (Section 102 of the National Security Act) or the IC charter.

b. The bill assumes that the bill now with OMB which would establish two statutory deputies will not have been enacted. If the latter is enacted, some modification in this bill would be necessary. Also, the bill contains no restriction or requirement concerning military or civilian incumbency of the positions of Director or Deputy for the Community. It does, however, provide for the appointment of a military officer without loss of military benefits as now in Section 102 for the Director and Deputy Director.

c. The bill adopts and utilizes the term "Intelligence Community Staff." Possibly another name such as the "Office of Intelligence Community Management" would more aptly describe the functions of the staff and also seems a more formal title.

d. Section 5 adopts for the IC Staff the administrative authorities of CIA, in broad, general terms. It may be that it is both unnecessary and undesirable to attempt to adopt all CIA authorities by means of this all inclusive language. The IC Staff will not need all of the administrative authorities of CIA, since it will be a managing, policy setting, Washington agency, rather than a large operating agency with legal and other interests and problems of a wide variety for which normal Government administrative law is not always adequate.

e. Section 6 provides for detailing CIA people to the IC Staff, but with the right to return to CIA. It also provides that personnel of other agencies now detailed to CIA and assigned to the IC Staff are by this bill detailed to the new IC Staff.

f. Section 6(b) and (c) provide for the transfer of funds, property and records to the new staff and is modeled somewhat on Section 102(f) of the National Security Act.

g. Section 7 Also is modeled on Section 102(f) of the National Security Act.

2. I believe the main value of the bill is that its existence will permit all concerned to consider, study, revise and improve it, to consider the opportunities, problems and choice of approaches. Undoubtedly, many questions will have to be resolved. Also, events could overtake it.



STATINTL

26 July 1976

S. _____

An Act to establish an Intelligence Community Staff and provide for its functions and for other purposes.

Be it enacted by Senate and House of Representatives of the United States of America in Congress assembled, That:

SECTION 1. This Act may be cited as the "Intelligence Community Staff Act of 1976."

SECTION 2. DEFINITIONS

(a) The "Intelligence Community" includes the following components of the executive branch:

- (1) the Central Intelligence Agency;
- (2) the Defense Intelligence Agency;
- (3) the National Security Agency;

(4) such components of the Department of State, the Department of Defense, the Department of the Treasury, the Energy Research and Development Administration and the Federal Bureaus of Administration which by statute or by direction of the President have authorities, duties, functions or responsibilities with respect to foreign intelligence, as the President shall by Executive Order designate as Intelligence Community components.

(b) "Foreign intelligence" means information on the capabilities, intentions and activities of foreign powers or organizations or their agents.

SECTION 3. There is hereby established an independent agency in the executive branch to be known as the Intelligence Community Staff. The Director of Central Intelligence shall be the head of the Staff.

SECTION 4.

(a) There shall be a Deputy Director of Central Intelligence for the Intelligence Community (hereinafter the "Deputy for the Community") who shall be appointed by the President by and with the advice and consent of the President. The Deputy for the Community shall receive compensation at the rate prescribed for positions at level III of the Executive Schedule (5 U.S.C. 5313).

(b)(1) If a commissioned officer of the armed services is appointed as Deputy for the Community, then--

(A) in the performance of his duties as Deputy for the Community, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof; and

(B) he shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Deputy for the Community) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, unit, or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(b)(2) Except as provided in paragraph (1) of this subsection, the appointment to the office of Deputy for the Community, of a commissioned officer of the armed services, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed services, or any emolument, prerequisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving in the office of Deputy for the Community, continue to hold rank and grade not lower than that in which serving at the time of his appointment and to receive the military pay and allowances (active or retired, as the case may be, including personal money allowance) payable to a commissioned officer of his grade and length of service for which the appropriate department shall be reimbursed from any funds available to defray the expenses of the Intelligence Community Staff. He also shall be paid by the Intelligence Community Staff from such funds an annual compensation at a rate equal to the amount by which the compensation established for such position exceeds the amount of his annual military pay and allowances.

(b)(3) The rank or grade of any such commissioned officer shall, during the period in which such commissioned officer occupies the office of Deputy for the Community, be in addition to the numbers and percentages otherwise authorized and appropriated for the armed service of which he is a member.

(c) The Director of Central Intelligence may delegate to the Deputy for the Community such authority to manage and direct the Intelligence Community Staff as he deems appropriate. The Director, subject to the approval or direction of the President, also may delegate to the Deputy for the Community such of the functions of the Director other than his functions as head of the Central Intelligence Agency as he deems appropriate.

SECTION 5. Those provisions of the National Security Act of 1947, as amended, the Central Intelligence Act of 1949, as amended, and of any other statutes which authorize the Director of Central Intelligence or the Central Intelligence Agency to appoint and employ personnel (including the authority of the Director under section 102(c) of the National Security Act to terminate employment whenever he shall deem termination necessary or advisable in the interests of the United States), to procure goods and services, and to receive, transfer and expend funds, shall apply also with respect to the functions of the Intelligence Community Staff.

SECTION 6.

(a) The personnel of the Intelligence Community staff of the Central Intelligence Agency are transferred to the Intelligence Community Staff. Those employees of the Central Intelligence Agency assigned to the Agency's Intelligence Community staff shall become detailees to the Intelligence Community Staff and shall remain employees of the Agency with the right to return to duty with the Agency upon completion of their detail to the Staff. The Agency and the Staff shall, by agreement, determine the period of the detail to the Staff of those Agency employees whose current assignment to the Agency's Intelligence Community staff is not for a specified period of time. Employees of other agencies of Government currently detailed to the Agency and assigned to its Intelligence Community staff, and military personnel so assigned, shall become detailed to the Staff.

(b) Any unexpended balances of appropriations, allocations, or other funds available or authorized to be made available for the Intelligence Community staff of the Central Intelligence Agency shall be available and authorized to be made available in like manner for expenditure by the Intelligence Community Staff.

(c) The property and records of the Intelligence Community staff of the Central Intelligence Agency are transferred to the Intelligence Community Staff and the staff shall cease to exist.

SECTION 7. The position of Deputy to the Director of Central Intelligence for the Intelligence Community established by Executive Order 11905 shall cease to exist effective when the Deputy for the Community first appointed under subsection 4(a) has taken office.